

BADIAK & WILL, LLP
Attorneys for Plaintiff
LIBERTY MUTUAL GROUP, INC.
As subrogee of Bodger Seeds, Ltd.
106 Third Street
Mineola, New York 11501
(516) 877-2225
Our Ref.: 07-J-011-AW/LS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LIBERTY MUTUAL GROUP, INC.,
As subrogee of BODGER SEEDS, LTD.,

Plaintiff,

08 CV 00223 (JSR)

- against -

ECF CASE

MEDITERRANEAN SHIPPING
COMPANY, S.A.,

NOTICE OF MOTION

Defendant.

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PLEASE TAKE NOTICE that, pursuant to Rule 56 of the Federal Rules of Civil Procedure, and the Court's Individual Rules of Practice, and upon the Affidavit in Support of Alfred J. Will sworn to August 8, 2008 and the exhibits annexed thereto; the Affidavit of Joseph Apolinar sworn to on July 24, 2008; the Affirmation of Angelina Mbaga executed on August 7, 2008 and the exhibits annexed thereto; the Local Rule 56.1 Statement of Undisputed Material Facts; and the accompanying Memorandum of Law, Plaintiff, LIBERTY MUTUAL GROUP, INC. As Subrogee of BODGER SEEDS, LTD., hereby moves before the Honorable Jed. S. Rakoff, United States District Judge, at the United States Courthouse for the Southern District located at 500 Pearl Street, New York, New York for summary judgment, and for such other, further or different relief as this Honorable Court may deem just and proper.

The schedule for such motion shall be as set forth in the Civil Case Management Plan applicable to this action which is as follows:

- 1) Moving papers are to be served and filed by August 11, 2008¹
- 2) Answering papers are to be served and filed by August 19, 2008
- 3) Reply papers are to be served and filed by August 28, 2008
- 4) A final pre-trial conference and oral argument is to be held on September 4, 2008 at 2:00 p.m.

Dated: Mineola, New York
August 8, 2008

BADIAK & WILL, LLP
Attorneys for Plaintiff
LIBERTY MUTUAL GROUP, INC.
As Subrogee of BODGER SEEDS, LTD.

By: 

ALFRED J. WILL (AW-2485)

106 Third Street

Mineola, New York 11501

(516) 877-2225

Our Ref.: 07-J-011-AW/LS

TO: LYONS & FLOOD, LLP
Attorneys for Defendant
MEDITERRANEAN SHIPPING
COMPANY, S.A.
65 W. 36th Street, 7th Floor
New York, New York 10018
(212) 594-2400

¹The applicable Civil Case Management Plan states that moving papers are to be served and filed on August 9, 2008, which is a Saturday. We were informed by Judge Rakoff's Chambers that submission of moving papers will be accepted on the following Monday which is August 11, 2008. Defense counsel has been made aware of this fact.

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AFFIDAVIT OF SERVICE

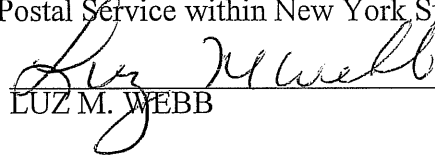
STATE OF NEW YORK)
)SS.:
COUNTY OF NASSAU)

I, Luz M. Webb, being duly sworn, deposes and says:

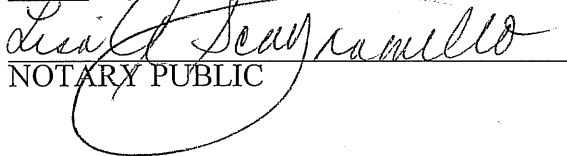
I am not a party to the within action, am over 18 years of age and reside c/o Badiak & Will, LLP, 106 3rd Street, Mineola, New York 11501-4404. On August 11, 2008 I served the within NOTICE OF MOTION on:

LYONS & FLOOD, LLP
Attorneys for Defendant
Mediterranean Shipping Company, S.A.
65 W. 36th Street, 7th Floor
New York, New York 10018
(212) 594-2400

by depositing a true copy thereof enclosed in a post-paid wrapper in an official depository under the exclusive care and custody of the United States Postal Service within New York State.


LUZ M. WEBB

Sworn to before me this
11th day of August, 2008


NOTARY PUBLIC

LISA A. SCOGNAMILLO
Notary Public, State of New York
No. 5011463
Qualified in Nassau County
Commission Expires Apr 19, 2011